

HOUSE BILL NO. 23

INTRODUCED BY J. PARKER

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A VIOLATION OF SECTION 61-8-303, MCA, IS SUBJECT TO THE SURCHARGE IMPOSED BY SECTION 3-1-318, MCA; AMENDING SECTION 3-1-318, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-1-318, MCA, is amended to read:

"3-1-318. Surcharges upon certain criminal convictions -- exception. (1) Except as provided in subsection (2), all courts of limited jurisdiction, except small claims courts, shall impose a \$10 surcharge on a defendant who is convicted of criminal conduct under state statute, including 61-8-303, or who forfeits bond.

(2) A court may not waive payment of the surcharge unless the court determines that the defendant is unable to pay the surcharge. Inability to pay must be supported by a sworn statement from the defendant demonstrating financial inability to pay without substantial hardship in providing for personal or family necessities. The statement is not admissible in the proceeding unless offered for impeachment purposes and is not admissible in a subsequent prosecution for perjury or false swearing.

(3) The surcharge imposed by this section is not a fee or a fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be forwarded to the department of revenue for deposit in the account created in 44-10-204."

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2005.

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